

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN M. POLO,
THOMAS W. DUBENSKY, JR.,
ILYA FROLOV,
JASON P. GARDNER,
GILLIS OTTEN,
SUSAN BARNETT, and
DAVID A. DRIVER

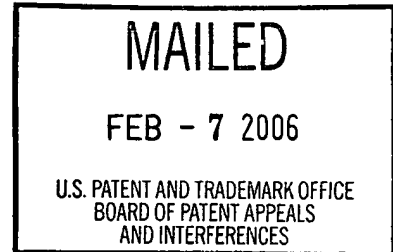
Application 09/551,977

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on December 28, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

The Examiner's Answer of October 5, 2005 does not comply with the headings as set forth in the new rules under 37 CFR § 41.37(c). See the Manual of Patent Examining Procedure § 1207.02. Correction is required.

On December 7, 2005, appellants filed a Reply Brief. There is no indication on the record that this paper was considered by the examiner.

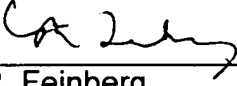


Accordingly, it is

ORDERED that the instant application be electronically returned to the examiner to:

- (1) consider the Reply Brief;
 - (2) written notification to appellants of said consideration;
 - (3) vacate the Examiner's Answer of October 5, 2005 and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004;
- and
- (4) for such action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



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